



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

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| IN THE MATTER OF BERGEN COUNTY |) | ORDER APPROVING EXEMPTION |
| MAHWAH COMMUNICATIONS CENTER |) | |
| EXEMPTION FROM MAIN EXTENSION |) | |
| RULES AT <u>N.J.A.C. 14:3-8.8(b) (1)</u> |) | DOCKET NO.: EO 09070522 |

(SERVICE LIST ATTACHED)

BY THE BOARD:

By this Order, the Board considers a request by Bergen County ("Petitioner" or "Bergen County") for an exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(b)(1). This section of the rules provides for an exemption from the cost limits on extensions of service in areas not designated for growth for a project that will provide a significant public good. The Petitioner is seeking to install electrical service to a Communications Center located in Mahwah ("Mahwah Center"). The Mahwah Center is located in an Environmentally Sensitive Planning Area PA5 and a Parks and Natural Areas Planning Area, areas not designated for growth.

Petitioner seeks relief from the rules which would otherwise require the Petitioner to pay the entire cost of installing the electrical service.

The total cost from Rockland Electric Company (RECO) to install the electric service is \$89,043.73.

The Petitioner submits that it is exempt from the requirements for the costs of the extension pursuant to N.J.A.C. 14:3-8.8(b)(1), because the project will provide a significant public good, as described in N.J.A.C. 14:3-8.8(h). N.J.A.C. 14:3-8.8(h) provides that to obtain an exemption based on significant public good, a Petitioner must demonstrate to the Board that all of the following criteria are met: (1) the project or activity served by the extension would provide a significant benefit to the public or to the environment; (2) the project is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth; and (3) there is no practicable alternative means of providing the benefit while still complying with this subchapter. In assessing criterion two (2), the Board must consult with the Office of Smart Growth ("OSG") and other State agencies.

The Petitioner presents the following as to each criterion in N.J.A.C. 14:3-8.8(h):

1. Whether the Project or Activity Served by the Extension will Provide a Significant Benefit to the Public or to the Environment

Petitioner argues that the building will serve as a 9-1-1 communications center performing such functions as an emergency center for the county office of emergency management, receiving 9-1-1 and emergency calls and then dispatching of Public Safety resources to these emergency calls and as a disaster recovery center for the Law Enforcement Data Network. This regional dispatch center will serve as a shared resource for multiple municipalities, while the data recovery center will back up the County's existing center in Paramus. The center has the potential to serve and benefit the entire population of Bergen County, especially in the event of a natural or manmade disaster.

2. That the project ... is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth. In making this determination, the Board will consult with the Office of Smart Growth and other State agencies

Here, Petitioner states the project is entirely consistent with smart growth, specifically be emphasizing the community quality of life through its LEED design, addressing cost savings with energy sustainability and minimal impact to the environment. The building is built on a site where police, fire and emergency personnel training centers are located thereby using existing county infrastructure. The existing emergency facilities were established in this location prior to 1967, 34 years prior to the issuance of the NJ State Plan and State Plan Map. The facilities underwent a thorough renovation in 2001.

3. There is no practicable alternative means of providing the benefit while still complying with this subchapter

The County, through its experienced and renowned consultants, has determined that this project and its location provide the best means of serving the public good based upon the above-stated purposes, and it is not practical or feasible to construct a similar project elsewhere in the County of Bergen. The concept of a new communications center was made and implemented to support the communications needs of the county's Public Safety agencies as well as the 9-1-1 and dispatch needs of the towns that have contracted with the County of Bergen. The new communications center will support Public Safety interoperability within the County as well as consolidation of 9-1-1 and communication infrastructure as requested and needed by local municipalities. The location was selected as a result of a risk assessment of County owned property. This location consolidates the Mahwah center with other major county emergency services training centers and facilities. The site will act as a redundant site for Law Enforcement Data Network.

The following steps were taken by Board Staff and are part of the record that the Board has reviewed.

Pursuant to the requirement in N.J.A.C. 14:3-8.8(h)(2), Staff consulted with the OSG, the Department of Environmental Protection ("DEP") and the New Jersey Highlands Council. James A. Souder, Interim Executive Director of the Office of Smart Growth, has identified that the Mahwah Center is located in a Parks and Natural Areas Planning Area, a non growth area,

as provided by the New Jersey State Development and Redevelopment Plan ("State Plan"). The area is wholly surrounded by a densely populated area of Bergen County, which is situated in a Metropolitan Planning Area or PA1, a growth area.

Director Souder, in a letter dated July 17, 2009, stated that OSG believes that this exemption should be granted to the Bergen County Department of Public Works for the extension of utilities to the Mahwah Communications Center, as to allow for the development of a 9-1-1 communications center, as to serve the densely populated area that currently surrounds the Institute." OSG determined that the Mahwah Center is consistent with Goal 5 of the State Plan: Provide Adequate Public Facilities and Services at a Reasonable Cost by providing infrastructure and public health and safety services more efficiently by supporting cooperative public infrastructure and public health services more efficiently by supporting cooperative public infrastructure supply and shared services.

OSG states the project is consistent with smart growth principles in that the Mahwah Center "... is consistent with State Plan Policy 3: Public Investment Priorities, as it is the intent to provide to provide infrastructure where infrastructure exists or is planned and where it can be provided efficiently. More importantly, this project meets the intent of Policy 1: Priority for Public Health and Safety, where the highest priority should be given to infrastructure projects and programs statewide that mitigate life threatening situations and emergent threats to the public's health and safety, regardless of the location."

Bill Purdie of the NJ DEP Office of Planning and Sustainable Communities responded on July 21, 2009 in favor of the exemption:

"This area of Mahwah, Bergen County is delineated as the Environmentally Sensitive Planning Area (PA 5) in the State Development and Redevelopment Plan. The site is also within the Highlands Planning Area in an Existing Community Zone. The County Communications Center will be located at the County's existing facility located on Campgaw Road on County land. Bergen County police, fire and emergency training academies are currently located here, as well as communication operations for all County departments and some municipalities. Although in an environmentally sensitive area, the facility serves a critical public safety function.

Consequently, DEP believes that this request should be granted as it provides a significant benefit to the public that outweighs smart growth principles. "

Eileen Swan, Executive Director of the Highlands Council responded to a request for comments on July 30, 2009 that the site of the Mahwah Center

"...is located in the Existing Community Zone of the Highlands Planning Area. We understand that the Proposed Communications Center would be located on the County's existing facility where Bergen County police, fire and emergency training academies are currently located, as well as communications operations for all County departments and some municipalities. The selection and ultimate use of this location is consistent with Highlands Council regional Master Plan Objective 605- 'to located and maintain community facilities and services that support compact development patterns, shared services and provide a high level of service.' Further, it is acknowledged that the proposed facility would provide

important public health and safety benefits. Thus, the Highlands Council staff would not object to the granting of this BPU Exemption."

DISCUSSION:

The Board's jurisdiction over utility extensions is found at N.J.S.A. 48:2-27, which provides that the Board "may ...require any public utility to establish, construct, maintain and operate any reasonable extension," where the extension is: (1) reasonable and practicable; (2) will furnish sufficient business to justify the construction; and (3) when the financial condition of the public utility reasonably warrants the original expenditure. In considering the requested exemption, the Board adopted rules concerning the extension of service at N.J.A.C. 14:3-8.1 et seq.

The Board has reviewed the recommendation of the OSG, DEP and Highlands Council staff where it notes that the Bergen County Communications Center is located in a non-growth area. OSG, DEP and the Highlands Council Staff further note that the project is consistent with the State Plan, smart growth and the Highlands Council Regional Master Plan.

As to the remaining statutory requirements, the Board must ascertain that the financial condition of the utility warrants the expenditure and whether the extension will furnish sufficient business to justify the expense. RECO was sent a letter on July 13, 2009. RECO responded to this request on August 4, 2009 that "... the revenue calculation applies ten years of annual estimated revenue against the cost of the project. The ten year calculated entitlement is approximately \$500,000.00 resulting in the Applicant not being responsible for any contribution toward the cost of the electric service extension. ...If the Board approves the Applicants request for an exemption, thereby requiring RECO to treat the service extension as if it were located in an area designated for growth, RECO will incur the full cost of the project (i.e. \$89,043.73). "

After reviewing the exemption petition, the Board FINDS that the criteria set out in the rules at N.J.A.C. 14:3-8.8(b)(1) for a project that will provide a significant public good are met. Specifically, the Board FINDS, that the Mahwah Center does constitute a significant benefit to the public, is consistent with smart growth or that the benefit of the extension will outweigh the benefits of smart growth, and that there are no practicable alternative means of providing the benefit.

First, the Board FINDS that the Mahwah Center constitutes a significant benefit to the public. The Mahwah Center provides an essential public safety facility located in a secure developed location. The Board notes that this project is located in an area currently developed with fire, police and emergency management agency facilities which will directly interface and benefit from the Mahwah Center. The current facilities were located on this site prior to 1967 and were completely renovated by the County in 2001.

Second, the Board FINDS that the Mahwah Center is consistent with smart growth and the benefits of the project outweigh the benefits of smart growth. The Highlands Council Executive Director states the selection and ultimate use of this location is consistent with Highlands Council regional Master Plan Objective 605- 'to located and maintain community facilities and services that support compact development patterns, shared services and provide a high level of service. DEP notes Bergen County the police, fire and emergency training academies are

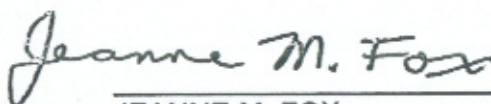
currently located here, as well as communication operations for all County departments and some municipalities. Although in an environmentally sensitive area, the facility serves a critical public safety function.

Finally, the Board FINDS that there is no practical alternative means of providing the benefit while still complying with this subchapter. The Mahwah Center is located in an area long established with consolidated public emergency management facilities, including dispatchers servicing several municipalities, multiple Bergen County departments and agencies which require the emergency response communications center. In selecting the location, Bergen County considered security of the facility and other public safety concerns of the County.

Pursuant to N.J.A.C. 14:3-8.8(k)(3), the Board is to determine the distribution of costs for the extension at the time of approval of the exemption based on significant public good. Therefore, the Board HEREBY ORDERS that the distribution of costs of extending electrical service to the Mahwah Center shall be governed by the requirements at N.J.A.C. 14:3-8.7 for extensions that serve a designated growth area.

DATED: 9/16/09

BOARD OF PUBLIC UTILITIES
BY:



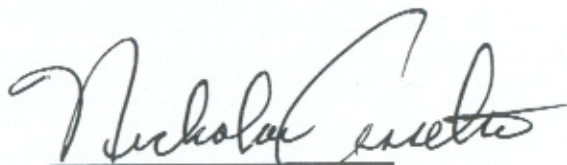
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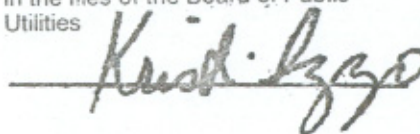


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



**IN THE MATTER OF BERGEN COUNTY MAHWAH COMMUNICATIONS CENTER
PETITION FOR AN EXEMPTION FROM
MAIN EXTENSION RULES AT N.J.A.C.14:3-8.8(b) (1)**

Docket No. EO 09070522

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